IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21/02/2003

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THE HON'BLE MR.JUSTICE E.PADMANABHAN

WRIT PETITION NO. 12347 of 2000 and WRIT PETITION NO.15695 of 2000

S.Murugan ..Petitioner
in WP.12347/2000

VOC Industrial Training Institute
rep. by its Correspondent
Pattalamman Koil St.,
VOC Nagar, Chinnamanur
Theni Dist., ..Petitioner
in WP.15695/2000

-Vs-

1.The Principal,
VOC Industrial Training Institute
rep. by its Correspondent
Pattalamman Koil St.,
VOC Nagar, Chinnamanur
Theni Dist., ..Respondent in
WP.No.12347/2000

1.The Director of Training
and Secretary to National Council
for vocational Training
Government of India
Ministry of Labour
DGE & T, Rafi Marg
New Delhi.

2.The Commissioner of Employment and Training
Chepauk, Chennai-5

3.The Regional Joint Director of
Employment & Training
Madurai Region,
Madurai Dist., ..Respondents in
both WP.s

For petitioner:: Mrs.R.T.Shyamala

For respondents: Ms.V.Velumani AGP
Mr.G.jayachandran ACGSC

Petitions filed under Article 226 of The Constitution of India praying for the issue of a writ of mandamus, as stated therein.

:O R D E R

W.P.No:2347 of 2000 has been filed by S.Murugan, seeking for the issue of a writ of mandamus directing the second respondent to issue the National Trade Certificate in Electrician Course to the petitioner.

2. W.P.No: 15695 of 2000 has been filed by the VOC Industrial Training Institute represented by its Correspondent, seeking for the issue of a writ of mandamus directing the third respondent to issue a the certificates for the Electrician one Unit of 1996 batch students, who sat for the examination in the year 1998 along with another one Unit Electrician students in pursuance of the order of this court in W.P.No.10301/98, dated 26.4.1999.

3. The petitioner in W.P.No.12347 of 2000 was one of the students who was admitted to the VOC Industrial Training Institute, petitioner in W.P.no.15695 of 2000, though which it is claimed that he has appeared for the examination in Electrician Trade. In fact one another writ petition was filed by one Selvarajan who was also admitted in the said VOC Industrial Training Institute. By a separate order the said writ petition was disposed of.

4. Heard Mrs.R.T.Shyamala, learned counsel appearing for the writ petitioner in W.P.NO:15695/2000 as well as W.P.No:12347/2000 Ms.V. Velumani, learned Additional Government Pleader, and Mr.G.Jayachandran, Additional Central Government Standing Counsel appearing for the respondents 1 to 3.

5. According to the petitioner VOC Industrial Training Institute, it is an approved Institute by the National Council for Vocational Training and therefore all the students, who were admitted and who appeared for the examination are entitled to the certificates issued by the National Council for Vocational Training. The institute claimed that it is entitled to admit two units, meaning 40 students and therefore 40 students who have been admitted by the Institute and who have passed the Examinations should be issued with the certificates By the National Council for Vocational Training.

6. Per contra, learned Additional Central Government Standing Counsel as well as the Additional Government Pleader contended that the said VOC Industrial Training Institute though is entitled to admit two units, such admission should be in alternate year and not every year. If two units admitted every year it is in contravention of the approval as well as the restriction imposed and it would mean that the institute has admitted students far in excess of the approved or authorised strength. A detailed counter has been filed by the first respondent which would show that only alternate years the Institute could admit two units. In other words, at one time two units of 40 students could undergo the course for both years in Electrician Trade and not two units of 40 students every year, which would mean 80 students in a

block period of two years.

7. The learned counsel for the writ petitioner relied upon the order passed by S.S.Subramani,J., on 26.4.19099 in W.P.No:10301 of 1998. The reliance so placed upon the direction issued by S.S.Subramani, J., will not in any way advance the case of the petitioner. The Honourable Judge while issuing directions permitted the students to write examination only in respect of two units only. In respect of other two units no such direction was issued as affiliation has not been granted. The Honourable Judge observed that having not secured affiliation so far, they are not entitled to a direction. The order reads thus:-

"2. The second respondent has filed a counter stating that the permanent affiliation has been ranted for the petitioner institute for two units in respect of Electrician Trade in the year 1992 and recommended trainees for which affiliation is granted. It is submitted by the respondents that they have no objection for the students appearing for the examination and also to have the results published for the affiliated trade. In fact the students have been permitted to write the examination also. In view of the said submission by the Standing Counsel for the first respondent and also by the Government Pleader students are permitted to write the examination and also to have the certificates issued.

3. It is submitted that the petitioner sought for affiliation for two other units of Electrician Trade and the same has not been affiliation so far. In regard to those units no relief is granted in the writ petition. The writ petition No.10301 of 1998 is disposed of. Consequently WMP No.15779 of 1998 is closed."

8. In the counter affidavit filed by the Director of Advanced Training Institute, Government of India, it is set out thus:-

"2. It is respectfully submitted that as per the existing norms prescribed by the National Council for Vocational Training (hereinafter referred as NCT), students are to be admitted by the Institutes only after the institute been inspected by the Standing Committee constituted by the State Directorate of Employment and Training and have recommended for affiliation. The recommendation of the Standing Committee is then considered by the sub committee of the NCVT, dealing with affiliation. Only those institutes which fulfill the norms of the NCVT, will be granted affiliation and those students who are admitted in the units affiliated to NCVT alone are entitled to take up All India Trade Test conducted by the NCVT. The students who join institutes which are recommended by State Standing Committee but not recommended by the subcommittee of NCVT for affiliation are not eligible to write All India Trade Test (AITT) conducted by NCVT but they can take up state level trade test conducted by the State Council for Vocational Training (SCVT)
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4. It is respectfully submitted that the DGE&T vide its letter DGET-12(1)/96-TC dated 7.8.1996 conveyed to Director of Employment and

Training, Tamil Nadu as well as to the concerned institute that affiliation to two additional units of Mechanic (Motor Vehicle) based on SCIR dated 13.2.1996 was granted. In this letter it was clearly mentioned that 4 units of electrician, as claimed by the institute, were not affiliated. This was earlier also conveyed vide letter No.DGE&T-12(6)/94-TC dated 15.3.1995 and letter No.DGET6/22/58/93-TC dated 5.5.199 6.

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11. As submitted earlier only 2 units of electrician Trade of the VOC ITC were affiliated with effect from the academic session August 1 992. Duration of that course is of two years. Thus, the institute was to enroll trainees of one unit (i.e. 16 trainees) each year with effect from August 1992.Subsequently, two more units of electrician trade were affiliated with effect from August 1997. Thus, only from the academic session of August, 1997 and onwards the institute could have enrolled trainees in two units (ie. 32 trainees) every year. AS such in August, 1996, the institute should have enrolled only 16 trainees in Electrician trade (one unit) and only these trainees were eligible to sit in the examination of July 1998. We are not aware whether the petitioner (Ex ITI trainee) belonged to the affiliated Unit of Electrician trade. He is entitled to have NCVT Certificate subject to condition he being admitted in the affiliated unit and of his qualifying the trade test. Trainees of unaffiliated Electrician unit were neither eligible to it in the All India Trade Test nor are entitled for getting the NCVT certificate. However, the trainees of unaffiliated trades can sit for SCVT examination conducted by the State Director stated in the affiliation procedure."

9. In the light of the above stand, it is clear that the petitioner in both the writ petitions are not entitled to any direction. However, it was sought to be contended that the petitioner institute is entitled to admit two units which means 40 students per year while it is the contention of the contesting respondent that 40 students to be admitted only in alternative years as the infrastructure available and provided for by the institute is only to that extent or limit. In this respect, the circular issued by the Ministry of Labour, Government of India, is placed before the Court. The clarification reads thus:-

"The clarification has been sought by you regarding admission of trainees per year in the institute. You are aware that as per the affiliation procedure, total units in any trade affiliated at the institute should not be more than affiliated units and should remain unchanged at any point of time e.g. If any institute is affiliated for two units, it means the institute should not have more than two units at any point of time. Therefore the institute should admit either one unit per year and run the institute in two shifts, one unit in each shift. Alternatively the institute may admit two units one year, running one unit in each shift. But, in this condition, the institute should admit trainees alternate years only, so that number of units admitted in the institute should remain two at any point of time."

This Circular, which is part of the scheme is an answer to the petitioners' contention.

10. Being admitted beyond the permitted strength it is pointed out that the petitioner in both the writ petitoners are not entitled to seek the relief of mandamus prayed for. In this respect, the pronouncement of the Supreme Court in Mallikarjuna Mudhagal Nagappa And Others Vs. State of Karnataka and others, reported in 2000 (7) SCC 238, is rightly relied upon. The Apex Court following its earlier two judgments, held thus:-

"2. We are not impressed by the fact that the students are before us challenging the orders of the Department that they cannot be permitted to take the examination. If their admission was not valid and as beyond the permitted quota of 60, we cannot help the petitioners.

3. Learned Single Judge and the Division Bench were absolutely right in applying the decision of this court in State of Punjab V. Renuka Singla (AIR 1994 SC 595) and State of Maharashtra V. Vikas Sahebrao Roundale (AIR 1992 SC 1926) and in declaring that this admission was illegal. The relevant passages of the above said judgments are as follows:-

State of Punjab V. Renuka Singla

"8.The admission in medical course throughout India is governed by different statutory provisions, including regulations framed under different Acts. During last several years efforts have been made to regulate the admissions to the different medical institutions, in order to achieve academic excellence. But, at the same time, a counter attempt is also apparent and discernible, by which the candidates, who are not able to get admissions against the seats fixed by different statutory authorities, file writ applications and interim or final directions are given to admit such petitioners. We fail to appreciate as to how the High Court or this Court can be generous or liberal in issuing such directions which in substance amount to directing the authorities concerned to violate their own statutory rules and regulations, in respect of admissions of students".

State of Maharashtra Vs. Vikas Sahebrao Roundale:

"Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education. The directions to the appellants to disobey the law is subversive of the rule of law, a breeding ground for corruption and feeing source for indiscipline. The High Court, therefore committed manifest error in law, in exercising its prerogative power conferred under Article 226 of the Constitution, directing the appellants to permit the students to appear for the examination etc.," (Emphasis supplied)

This pronouncement squarely applies to the facts of this case and hence the petitioner is not entitled to the relief of mandamus prayed for.

11. In the light of the above legal position and factual position, it is clear that admission beyond approved strength of students has been resorted to by the petitioner institute. No mandamus could be issued as the petitioner's institute has admitted students in excess of the approved strength. Both the writ petitions are dismissed. No costs.

Internet:yes
Index:yes
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Copy to:-

1.The Director of Training
and Secretary to National Council
for vocational Training
Government of India
Ministry of Labour
DGE & T, Rafi Marg
New Delhi.

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